

REMARKS

Claims 4 and 9 -18 are pending. Claim 16 is allowed. Claims 14 and 15 have been withdrawn from consideration. By this Response claims 4 and 17 are amended. Reconsideration and allowance based on the comments below are respectfully requested.

Interview Summary & Petition to Withdraw Abandonment

The application was inadvertently abandoned. Thus, this response is being filed concurrently with a petition to withdraw the abandonment of the application and Optional Petition to Revive for unintentional abandonment.

Applicants representative conducted an interview with the Examiner on August 2, 2007. During this interview, amendments to independent claims 4 and 17 were discussed which would overcome the cited references and possibly place the application in condition for allowance. The Examiner suggested amending claim 4 as follows:

“wherein deletion of the candidate deletion object is performed in an image capturing sequence upon executing image capturing instructions when the operator presses fully a shutter button during the picture taking operation.”

The Examiner also recommended amending claim 17 as follows:

“a control device which controls the storing of captured image data in the memory card, wherein if the memory card capacity is less than the estimated amount of image data, the captured image data is stored in an internal memory of the image capturing device and if audio data is stored in the memory card, a selected audio data is only deleted from the memory card and the captured image data is transferred from the internal memory to the memory card upon deletion of the audio data and if audio data is not stored in the memory, the image capturing operation is inhibited.”

The Examiner stated that such amendments would overcome the teachings of the cited references (Ejima, Habuto, Yamaoka and Niwa) and would likely place the application in condition for allowance, although an updated search would be necessary.

In view of the interview, applicants have amended the independent claims as suggested by the Examiner. Applicants respectfully submit that the amendments place the application in condition for allowance.

Claim 4

The Office Action rejects 4, 9 and 10-13 under 35 U.S.C. § 103(a) as being unpatentable over Ejima et al. (US 2002/0027602), Habuto et al. (USP 6,810,441) and Yamaoka (USP 5,130,812). This rejection is respectfully traversed.

Claim 4 recites, *inter alia*, “ wherein deletion of candidate deletion object is performed in an image capturing sequence upon executing image capturing instructions when the operator presses fully a shutter button during the picture taking operation.” Applicant respectfully submits this feature is not taught by the combination of Ejima, Habuto and Yamaoka.

The Office Action agrees that Ejima and Habuto fail to teach the above noted feature in claim 4. Yamaoka is provided to teach the feature absent of Ejima and Habuto.

Applicant respectfully submit that Yamaoka does not teach the above noted feature. Yamaoka teaches during an audio recording operation the user can override a previously recorded audio signal by partially depressing the shutter release button 18. Applicants respectfully submit the partial pressing of the shutter release button is not being performed during the image capturing

operation. Yamaoka only teaches a partial pressing of the shutter release button and not a full pressing of the shutter button and also teaches this being performed during audio recording.

Therefore, Yamaoka fails to teach the above noted feature of claim 4. Therefore, the combination of Ejima, Habuto and Yamaoka fail to teach each and every feature of independent claim 4 as required. Dependent claims 9-15 are also distinguish from the combination for the above reasons as well as for the additional features they recite. Accordingly, withdrawal of the above noted rejection is respectfully requested.

Claim 17

The Office Action rejects claims 17 and 18 of 35 U.S.C. § 103(a) as being unpatentable over Habuto et al. (USP 6,810,441) in view of Niwa (USP 6,538,692). This rejection is respectfully traverse.

Claim 17 refers to a video and audio device which include the control device. The control device controls the storing of captured image data in the memory card. If the memory card does not have enough capacity to hold the estimated amount of image data, the captured image data is stored in the external memory of the image capturing device. If audio data is found to be stored in the memory card, only a selected audio data is then deleted from the memory card and the captured image data is transferred from the internal memory to the memory card upon deletion of the audio data. However, if audio data is not stored in the memory card, the image capturing operation is voided or inhibited and the image data is not stored at all.

Niwa teaches an image recording system with the ability to record data in an internal memory when the external memory is full.

Habuto teaches a system which provides a message to a user that the memory is full in an attempt to capture an image when there is insufficient memory to store the captured image. When receiving this message, it is up to a user to disengage from the image capturing operation and initiate an erasing procedure to remove data from the memory.

Habuto teaches notification of memory being full to a user and the user performing the task of deleting files if he deems it necessary and only being able to commence the image capturing when he has deleted such data.

Applicant respectfully submit that the combination of Habuto and Niwa does not teach or suggest only deleting audio data if memory space for capturing an image is needed, or if audio data is not stored in the memory card, the image capturing operation is voided or inhibited and the image data is not stored at all.

Therefore, Applicant respectfully submit that the combination of Niwa and Habuto fail to teach each and every feature of Applicant's independent claim 17. Claim 18 is also distinguished from the cited reference for the above reasons as well as the additional features it recites.

Accordingly, reconsideration withdrawal of the above noted rejections with regards to claims 17 and 18 are respectfully requested.

Conclusion

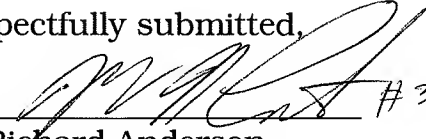
For the reasons above, Applicant respectfully submits that claims 4 and 9-17 are distinguishable over the combination of references. Favorable consideration and prompt allowance are earnestly solicited.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit

Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: October 31, 2008

Respectfully submitted,

By  #39,491
for D. Richard Anderson
Registration No.: 40,439
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road, Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant

Attachment to Petition dated October 29, 2008

Notification of PTO Error for 09/994,747

From: Uranga, Tony [mailto:Tony.Uranga@USPTO.GOV]

Sent: Monday, May 05, 2008 4:55 PM

To: Melvin, Monica

Subject: RE: 09/994,747

Monica,

Yes you will need to file a petition to withdraw abandonment. There should be no problem getting it granted.

When this application was reviewed in PAIR on 08/14/07 the non-final documents were not available per the explanation below. Let me know if you have other questions.

Content Information for 09/994747			
Search Another: Application # <input type="text"/> Search or Patent# <input type="text"/> Search			
PCT / <input type="text"/> / <input type="text"/> Search or PG PUBS # <input type="text"/> Search			
Attorney Docket # <input type="text"/> Search			
Bar Code # <input type="text"/> Search			
Appin Info	Contents	Petition Info	Atty/Agent Info
Continuity/Reexam			
Foreign Data			
Inventors			
Address			
Fee			
Date	Status	Code	Description
05/02/2008		EML_NTR	EMAIL NOTIFICATION
05/02/2008		MABN2	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION
04/28/2008	161	ABN2	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION
04/21/2008		WIDS	INFORMATION DISCLOSURE STATEMENT (IDS) FILED
04/21/2008		WIDS	INFORMATION DISCLOSURE STATEMENT (IDS) FILED
08/15/2007		ELC_RVW	ELECTRONIC REVIEW
08/14/2007		EML_NTF	EMAIL NOTIFICATION
08/14/2007	61	MCIFR	MAIL FINAL REJECTION (PTOL - 326)
08/06/2007	60	CTFR	FINAL REJECTION
08/07/2007		MEXIN	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)

Examiner Interview mail date 08/07/07 was uploaded into IFW on 08/13/07.

Final rejection mail date 08/14/07 was uploaded into IFW on 08/15/07.

The Exam interview when uploaded into IFW sent the email notice for both the Final and interview summary on 08/14/07.

The 08/15/07 date for Electronic Review is incorrect. It should indicate 08/14/07. The system is adding one day to the actual review date.

So when you reviewed on 08/14/07 the final rejection documents were not available in IFW.

Tony Uranga
USPTO/PAIR Team